

Senate File 350 - Enrolled

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SENATE FILE 350

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1 3 AN ACT
1 4 RELATING TO CHILD SUPPORT RECOVERY INCLUDING ACCESS TO
1 5 INFORMATION FOR THE PURPOSES OF RECOVERY, PROVISIONS RELATING
1 6 TO FAILURE TO WITHHOLD INCOME OR TO PAY THE AMOUNTS WITHHELD,
1 7 AND TO THE SUSPENSION OF A CHILD SUPPORT OBLIGATION, THE
1 8 SATISFACTION OF SUPPORT PAYMENTS, NULLIFYING RELATED
1 9 ADMINISTRATIVE RULES AND PROVIDING PENALTIES.
1 10
1 11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
1 12
1 13 Section 1. Section 252B.9, subsection 1, paragraph d,
1 14 subparagraph (2), Code 2005, is amended to read as follows:
1 15 (2) Certain records held by public utilities ~~and, cable,~~
1 16 ~~or other television companies, cellular telephone companies,~~
1 17 ~~and internet service providers~~ with respect to individuals who
1 18 owe or are owed support, or against or with respect to whom a
1 19 support obligation is sought, consisting of the names and
1 20 addresses of such individuals and the names and addresses of
1 21 the employers of such individuals, as appearing in customer
1 22 records. If the records are maintained in automated
1 23 databases, the unit shall be provided with automated access.
1 24 Sec. 2. Section 252B.20, subsection 1, paragraphs a, c,
1 25 and d, Code 2005, are amended to read as follows:
1 26 a. The parents have reconciled and are cohabiting, and the
1 27 child for whom support is ordered is living in the same
1 28 residence as the parents, or the child is currently residing
1 29 with the parent who is ordered to pay support. If the basis
1 30 for suspension under this paragraph applies to at least one
1 31 but not all of the children for whom support is ordered, the
1 32 condition of this paragraph is met only if the support order
1 33 includes a step change.
1 34 c. The parents have signed a notarized affidavit attesting
1 35 to the conditions under paragraphs "a" and "b", have consented
2 1 to suspension of the support order or obligation, and have
2 2 submitted the affidavit to the unit.
2 3 d. No prior request for suspension has been filed with the
2 4 unit during the two-year period preceding the request, unless
2 5 the request was filed during the two-year period preceding
2 6 July 1, 2005, the unit denied the request because the
2 7 suspension did not apply to all children for whom support is
2 8 ordered, and the parents jointly file a request on or after
2 9 July 1, 2005.
2 10 Sec. 3. Section 252B.20, subsection 2, paragraph b, Code
2 11 2005, is amended to read as follows:
2 12 b. Approve the request and prepare an order which shall be
2 13 submitted, along with the affidavit, to a judge of a district
2 14 court for approval, suspending the accruing support obligation
2 15 and, if requested by the obligee, and if not prohibited by
2 16 chapter 252K, satisfying the obligation of support due the
2 17 obligee. If the basis for suspension applies to at least one
2 18 but not all of the children for whom support is ordered and
2 19 the support order includes a step change, the unit shall
2 20 prepare an order suspending the accruing support obligation
2 21 for each child to whom the basis for suspension applies.
2 22 Sec. 4. Section 252B.20, subsection 5, unnumbered
2 23 paragraph 1, Code 2005, is amended to read as follows:
2 24 During the six-month period the unit may request that the
2 25 court reinstate the accruing support order or obligation if
2 26 any of the following conditions exist:
2 27 Sec. 5. Section 252B.20, Code 2005, is amended by adding
2 28 the following new subsections:
2 29 NEW SUBSECTION. 5A. If a condition under subsection 5
2 30 exists, the unit may request that the court reinstate an
2 31 accruing support obligation as follows:
2 32 a. If the basis for the suspension no longer applies to
2 33 any of the children for whom an accruing support obligation
2 34 was suspended, the unit shall request that the court reinstate
2 35 the accruing support obligations for all of the children.
3 1 b. If the basis for the suspension continues to apply to
3 2 at least one but not all of the children for whom an accruing
3 3 support obligation was suspended and if the support order
3 4 includes a step change, the unit shall request that the court
3 5 reinstate the accruing support obligation for each child for

3 6 whom the basis for the suspension no longer applies.
3 7 NEW SUBSECTION. 12. For the purposes of chapter 252H
3 8 regarding the criteria for a review under subchapter II of
3 9 that chapter or for a cost-of-living alteration under
3 10 subchapter IV of that chapter, if a support obligation is
3 11 terminated or reinstated under this section, such termination
3 12 or reinstatement shall not be considered a modification of the
3 13 support order.

3 14 NEW SUBSECTION. 13. As used in this section, unless the
3 15 context otherwise requires, "step change" means a change
3 16 designated in a support order specifying the amount of the
3 17 child support obligation as the number of children entitled to
3 18 support under the order changes.

3 19 Sec. 6. NEW SECTION. 252B.25 CONTEMPT == COMBINING
3 20 ACTIONS.

3 21 Notwithstanding any provision of law to the contrary, if an
3 22 obligor has been ordered to provide support in more than one
3 23 order, the unit may bring a single action for contempt to
3 24 enforce the multiple orders. However, if the obligor objects
3 25 to the consolidation of the actions regarding multiple orders
3 26 into a single action for contempt, and the court determines
3 27 that severance of the single action into multiple actions is
3 28 in the interest of justice, the unit shall bring multiple
3 29 actions for contempt to enforce the multiple orders. If the
3 30 single action is brought and the obligor does not object, the
3 31 unit shall file the action in the district court of a county
3 32 where the obligor resides, or if the obligor does not reside
3 33 in the state, in the district court of the county where at
3 34 least one of the support orders was entered or registered.
3 35 For the purposes of this section, the district court where the
4 1 unit files the action shall have jurisdiction and authority
4 2 over all other support orders for the obligor entered or
4 3 registered by a court of this state and affected under this
4 4 section. In such case, the unit shall also file a document
4 5 with the clerk of court in each county affected specifying the
4 6 county where the action under this section was filed and the
4 7 disposition of the action.

4 8 Sec. 7. NEW SECTION. 252B.26 SERVICE OF PROCESS.

4 9 Notwithstanding any provision of law to the contrary, the
4 10 unit may serve a petition, notice, or rule to show cause under
4 11 chapter 252A, 252C, 252F, 252H, 252K, 598, or 665 as specified
4 12 in each chapter, or by certified mail. Return acknowledgement
4 13 is required to prove service by certified mail, rules of civil
4 14 procedure 1.303(5) and 1.308(5) shall not apply, and the
4 15 return acknowledgment shall be filed with the clerk of court.

4 16 Sec. 8. Section 252D.3, Code 2005, is amended to read as
4 17 follows:

4 18 252D.3 NOTICE OF INCOME WITHHOLDING.

4 19 All orders for support entered on or after July 1, 1984,
4 20 shall notify the person ordered to pay support of the
4 21 mandatory withholding of income required under section 252D.1.
4 22 ~~However, for orders for support entered before July 1, 1984,~~
~~4 23 the clerk of the district court, the child support recovery~~
~~4 24 unit, or the person entitled by the order to receive the~~
~~4 25 support payments, shall notify each person ordered to pay~~
~~4 26 support under such orders of the mandatory withholding of~~
~~4 27 income required under section 252D.1. The notice shall be~~
~~4 28 sent by certified mail to the person's last known address or~~
~~4 29 the person shall be personally served with the notice in the~~
~~4 30 manner provided for service of an original notice at least~~
~~4 31 fifteen days prior to the ordering of income withholding under~~
~~4 32 section 252D.1. A person ordered to pay support may waive the~~
~~4 33 right to receive the notice at any time. However, this~~
~~4 34 subchapter is sufficient notice of implementation of mandatory~~
~~4 35 withholding of income under section 252D.1 without any further~~
5 1 notice.

5 2 Sec. 9. Section 252D.10, Code 2005, is amended to read as
5 3 follows:

5 4 252D.10 NOTICE OF IMMEDIATE INCOME WITHHOLDING.

~~5 5 The notice requirements of section 252D.3 do not apply to~~
~~5 6 this subchapter.~~ An order for support entered after November
5 7 1, 1990, shall contain the notice of immediate income
5 8 withholding. However, this subchapter is sufficient notice
5 9 for implementation of immediate income withholding without any
5 10 further notice.

5 11 Sec. 10. Section 252D.16, subsection 1, paragraph b, Code
5 12 2005, is amended to read as follows:

5 13 b. A sole payment or lump sum as provided in section
5 14 252D.18C, including but not limited to payment from an estate
5 15 including inheritance, or payment for personal injury or
5 16 property damage.

5 17 Sec. 11. Section 252D.24, subsection 2, Code 2005, is
5 18 amended by striking the subsection.
5 19 Sec. 12. Section 252I.3, Code 2005, is amended to read as
5 20 follows:

5 21 252I.3 INITIAL NOTICE TO OBLIGOR.

~~5 22 The unit may proceed under this chapter only if notice has
5 23 been provided to the obligor in one of the following manners:~~

~~5 24 1. The obligor is provided notice of the provisions of
5 25 this chapter in the court order establishing the support
5 26 obligation. The unit or district court may include language
5 27 in any new or modified support order issued on or after July
5 28 1, 1994, notifying the obligor that the obligor is subject to
5 29 the provisions of this chapter. However, this chapter is
5 30 sufficient notice for implementation of administrative levy
5 31 provisions without further notice of the provisions of this
5 32 chapter.~~

~~5 33 2. The unit may send a notice by regular mail to the last
5 34 known address of the obligor, notifying the obligor that the
5 35 obligor is subject to the provisions of this chapter, with
6 1 proof of service completed according to rule of civil
6 2 procedure 1.442.~~

6 3 Sec. 13. Section 252I.5, subsection 1, Code 2005, is
6 4 amended to read as follows:

~~6 5 1. If an obligor is subject to this chapter under section
6 6 252I.2, the unit may initiate an administrative action to levy
6 7 against the accounts of the obligor. If notice has previously
6 8 been provided pursuant to section 252I.3, further notice is
6 9 not required.~~

6 10 Sec. 14. Section 252J.3, unnumbered paragraph 1, Code
6 11 2005, is amended to read as follows:

~~6 12 The unit shall proceed in accordance with this chapter only
6 13 if the unit sends a notice is served on to the individual in
6 14 accordance with rule of civil procedure 1.305 or notice is
6 15 sent by certified mail addressed to the individual's last
6 16 known address and served upon any person who may accept
6 17 service under rule of civil procedure 1.305. Return
6 18 acknowledgment is required to prove service by certified by
6 19 regular mail to the last known address of the individual. The
6 20 notice shall include all of the following:~~

6 21 Sec. 15. Section 252J.3, subsections 4 and 5, Code 2005,
6 22 are amended to read as follows:

6 23 4. A statement that if, within twenty days of service
6 24 mailing of the notice on to the individual, the individual
6 25 fails to contact the unit to schedule a conference, the unit
6 26 shall issue a certificate of noncompliance, bearing the
6 27 individual's name, social security number and unit case
6 28 number, to any appropriate licensing authority, certifying
6 29 that the obligor is not in compliance with a support order or
6 30 an individual has not complied with a subpoena or warrant.

6 31 5. A statement that in order to stay the issuance of a
6 32 certificate of noncompliance the request for a conference
6 33 shall be in writing and shall be received by the unit within
6 34 twenty days of service mailing of the notice on to the
6 35 individual.

7 1 Sec. 16. Section 252J.4, subsections 1, 2, and 6, Code
7 2 2005, are amended to read as follows:

7 3 1. The individual may schedule a conference with the unit
7 4 following service mailing of the notice pursuant to section
7 5 252J.3, or at any time after service of notice of suspension,
7 6 revocation, denial of issuance, or nonrenewal of a license
7 7 from a licensing authority, to challenge the unit's actions
7 8 under this chapter.

7 9 2. The request for a conference shall be made to the unit,
7 10 in writing, and, if requested after service mailing of a the
7 11 notice pursuant to section 252J.3, shall be received by the
7 12 unit within twenty days following service mailing of the
7 13 notice.

7 14 6. If the individual does not timely request a conference
7 15 or does not comply with a subpoena or warrant or if the
7 16 obligor does not pay the total amount of delinquent support
7 17 owed within twenty days of service mailing of the notice
7 18 pursuant to section 252J.3, the unit shall issue a certificate
7 19 of noncompliance.

7 20 Sec. 17. Section 252J.6, subsection 1, unnumbered
7 21 paragraph 1, Code 2005, is amended to read as follows:

7 22 If an obligor is not in compliance with a support order or
7 23 the individual is not in compliance with a subpoena or warrant
7 24 pursuant to section 252J.2, the unit notifies mails a notice
7 25 to the individual pursuant to section 252J.3, and the
7 26 individual requests a conference pursuant to section 252J.4,
7 27 the unit shall issue a written decision if any of the

7 28 following conditions exists:

7 29 Sec. 18. Section 598.22A, subsection 1, unnumbered

7 30 paragraph 1, Code 2005, is amended to read as follows:

7 31 For payment made pursuant to an order, the clerk of the

7 32 district court or collection services center shall record a

7 33 satisfaction as a credit on the official support payment

7 34 record if its validity is confirmed by the court upon

7 35 submission of an affidavit by the person entitled to receive

8 1 the payment or upon submission of documentation of the

8 2 financial instrument used in the payment of the support by the

8 3 person ordered to pay support, after notice is given to all

8 4 parties.

8 5 Sec. 19. Section 600.16A, subsection 5, Code 2005, is

8 6 amended to read as follows:

8 7 5. Notwithstanding subsection 2, a termination of parental

8 8 rights order issued pursuant to this chapter, section 600A.9

8 9 may, or any other chapter shall be disclosed to the child

8 10 support recovery unit, upon request, without court order.

8 11 Sec. 20. NULLIFICATION OF RULES. The following rules are

8 12 nullified:

8 13 1. 441 IAC 98.22.

8 14 2. 441 IAC 98.23.

8 15 3. 441 IAC 98.33.

8 16 4. 441 IAC 98.92.

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JOHN P. KIBBIE
President of the Senate

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CHRISTOPHER C. RANTS
Speaker of the House

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8 28 I hereby certify that this bill originated in the Senate and

8 29 is known as Senate File 350, Eighty-first General Assembly.

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MICHAEL E. MARSHALL
Secretary of the Senate

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8 35 Approved _____, 2005

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9 4 THOMAS J. VILSACK

9 5 Governor